

(Part III.—Reference to Court and Procedure thereon.—Sections 18-19.)

inquiry and award which may be held or made in consequence of such supplementary notice.

PART III.

REFERENCE TO COURT AND PROCEDURE THEREON.

18. (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested :

Reference to Court.

Provided that every such application shall be made,—

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award ;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 13, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

(2) The application shall state the grounds on which objection to the award is taken.

19. (1) In making the reference the Collector shall state, for the information of the Court, in writing under his hand,—

Collector's statement to the Court.

(a) the situation and extent of the land with particulars of any damage caused under section 6 or of restrictions imposed under section 7 ;

(b) the names of the persons whom he has reason to think interested in such land ;

(c) the

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(c) the amount of compensation awarded under section 12 ; and,

(d) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively.

Service of notice.

20. The Court shall thereupon cause a notice specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day, to be served on the following persons, namely :—

(a) the applicant ;

(b) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded ; and,

(c) if the objection is in regard to the area of the land, the nature of the obstructions or the amount of the compensation, the Collector.

Restriction on scope of proceedings.

21. The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

Proceedings to be in open Court.

22. Every such proceeding shall take place in open Court, and all persons entitled to practise in any Civil Court in the Province shall be entitled to appear, plead and act, as the case may be, in such proceeding.

Matters to be considered in determining compensation.

23. (1) In determining the amount of compensation to be awarded for damage caused, or to be caused, or for restrictions imposed under this Act, the Court shall take into consideration—

(a) the actual decrease in market-value of the land owing to the publication of the declaration relating thereto under section 3
and

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and any damage caused or to be caused under section 6;

- (b) the damage sustained by the person interested, by reason of the removal of any standing crops in the exercise of any power conferred by section 6;
- (c) the damage (if any) sustained by the person interested, by reason of ceasing to be able to use such land conjointly with his other land;
- (d) the damage (if any) sustained by the person interested by anything done or ordered under sections 6 and 7 injuriously affecting his other property, moveable or immovable, in any other manner, or his earnings; and,
- (e) if, in consequence of the imposition of restrictions, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change.

(2) In addition to the amount representing the actual decrease in the market-value of the land as above provided, the Court shall in every case award a further sum of fifteen per centum on such amount.

24. In determining the amount of compensation to be awarded for damage caused, or to be caused, or for restrictions imposed under this Act, the Court shall not take into consideration—

Matters not to be considered in determining compensation.

- (a) the degree of urgency which has led to the damage or the imposition of restrictions;
- (b) any disinclination of the person interested to submit to damage or restrictions;
- (c) any damage sustained by him, which, if caused by a private person, would not render such person liable to a suit;

(d) any

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- (d) any increase to the value of the other land of the person interested, accruing or likely to accrue from anything done under this Act ; or
- (e) any outlay or improvements on, or disposal of, the land commenced, made or effected without the sanction of the Collector after the date of the publication of the declaration under section 3.

Rules as to
amount of
compensation.

25. (1) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under section 12.

(2) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

(3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Collector.

Form of
awards.

26. Every award under this Part shall be in writing signed by the Judge, and shall specify the amount awarded under section 23, sub-section (1), clause (a), and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

Costs.

27. (1) Every such award shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportion they are to be paid.

(2) When the award of the Collector is not upheld,

(*Part III.—Reference to Court and Procedure thereon.—Section 28. Part IV.—Apportionment of Compensation.—Sections 29-30. Part V.—Payment.—Section 31.*)

held, the costs shall ordinarily be paid by the Collector, unless the Court is of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

28. If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the Court may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date of his award to the date of payment of such excess into Court.

Collector may be directed to pay interest on excess compensation.

PART IV.

APPORTIONMENT OF COMPENSATION.

29. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Particulars of apportionment to be specified.

30. When the amount of compensation has been settled under section 12, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

Dispute as to apportionment.

PART V.

PAYMENT.

31. (1) On making an award under section 12, the Collector shall tender payment of the compensation

Payment of compensation or deposit of same in Court.